

***United States Court of Appeals  
for the  
District of Columbia Circuit***



**TRANSCRIPT OF  
RECORD**



# TRANSCRIPT OF RECORD.

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## Court of Appeals, District of Columbia

JANUARY TERM, 1906.

No. 1622 **400**

ALBERT DOWLING, APPELLANT,

*vs.*

THOMAS W. BUCKEY.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

FILED OCTOBER 30, 1905.



COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

JANUARY TERM, 1906.

No. 1622.

ALBERT DOWLING, APPELLANT,

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THOMAS W. BUCKEY.

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# In the Court of Appeals of the District of Columbia.

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ALBERT DOWLING, Appellant, }  
vs. } No. 1622.  
THOMAS W. BUCKEY. }

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*a* Supreme Court of the District of Columbia.

THOMAS W. BUCKEY, Plaintiff, }  
vs. } No. 47900. At Law.  
ALBERT DOWLING, Defendant. }

UNITED STATES OF AMERICA, }  
*District of Columbia,* } ss :

Be it remembered, that in the supreme court of the District of Columbia, at the city of Washington in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had, in the above-entitled cause, to wit:—

1 *Notice to Quit.*

Filed August 7, 1905.

Copy.

WASHINGTON, D. C., *May* 29, 1905.

To Albert Dowling, No. 1005 26th St. N. W., Washington, D. C.:

As I am desirous to have possession of the house and premises  
[July 1st, 1905—lot 30]\*  
known as No. 2512 L St. N. W. on L St. N. W. Wash. D. C., between  
25th & 26th. Sts. in the city of Washington, District of Columbia,  
and being sub lot 30 in square 15 which you now hold of me as  
tenant by the month and which tenancy began on Oct. 1st 1904—  
at the rate of fifteen 33/100 per mo.

I hereby give you notice to remove from and quit said premises  
at the expiration of 30 days from June 1st. 1905.

THOS. W. BUCKEY,  
*Agent for Owner.*

*Complaint.*

Filed August 7, 1905.

In Justice's Court of the District of Columbia, Sub-district No. 6.

|                              |                        |
|------------------------------|------------------------|
| THOMAS W. BUCKEY, Plaintiff, | } No. 47900. No. 4666. |
| vs.                          |                        |
| ALBERT DOWLING, Defendant.   |                        |

DISTRICT OF COLUMBIA, *To wit*:

2 Your complainant Thomas W. Buckey being first duly sworn according to law, states that he is entitled to the possession of the premises numbered 2512 L street, N. W., located in the District of Columbia, and that the same is unlawfully detained from him and held without right by the defendant Albert Dowling to whom the complainant—had heretofore rented the said premises as a monthly tenant—and whose tenancy and estate has been determined by the service of a due notice to quit, in writing of thirty days. Complainant—therefore prays that a summons be issued commanding the defendant to appear and show cause why judgment should not be given against defendant for the restitution of the possession of said premises, (add claim for rent, if any) and costs of this suit.

For THOS. W. BUCKEY.

Subscribed and sworn to before me this 1st. day of July, A. D. 1905.

ANTHONY L. RAY, [SEAL.]  
Notary Public, D. C.

*Summons.*

In Justice's Court of the District of Columbia, Sub-district No. 6.

|                              |             |
|------------------------------|-------------|
| THOMAS W. BUCKEY, Plaintiff, | } No. 4666. |
| vs.                          |             |
| ALBERT DOWLING, Defendant.   |             |

The President of the United States to the defendant, Albert Dowling, Greeting:

3 You are hereby summoned to appear in this court on the 14th day of July A. D., 1905 at 10 o'clock a. m., to answer the plaintiff's complaint and show cause why judgment should not be given against you for the restitution of the possession of the premises described in the complaint under oath filed herein by said plaintiff (add claim for rent, if any) and costs of this suit.

Given under my hand and seal this first day of July, A. D., 1905.

CHARLES S. BUNDY, [SEAL.]  
Acting Justice of the Peace.



*Marshal's Return.*

JULY 3, 1905.

Summoned by leaving a copy hereof with a person above the age of sixteen years, in possession of the premises; the defendant not to be found.

Camillo Daccaro.

AULICK PALMER,

*U. S. Marshal,*

By JOHN H. TRAVERS,

*Deputy Marshal.**Judgment.*

JULY 21, 1905.

Judgment for plaintiff for possession after trial—parties and counsel present, with \$3.10 / 100 costs.

HENRY RANDALL WEBB, J. P. [SEAL.]

4

*Appeal from Judgment of J. P.*

Filed July 24, 1905. H. R. Webb, Justice of the Peace.

Filed August 7, 1905.

In Justice's Court of the District of Columbia, Sub-district No. 6.

THOMAS W. BUCKEY, Plaintiff,

vs.

ALBERT DOWLING, Defendant.

No. 47900. No. 4666.

To Thomas W. Buckey, Bond building, Washington, D. C.:

You are hereby notified that I this 24th day of July, A. D., 1905 note an appeal from the judgment rendered in the above-entitled cause, and that I shall on the 27th day of July, A. D., 1905, at the hour of 10 o'clock a. m., at the office of said justice, offer the Metropolitan Surety Company, 38 Park row, New York city, Washington office, Bond bldg. a corporation created and existing under the laws of the State of New York, and James E. Tobin, residence No. 1220 4th. street, N. W., Washington, D. C. as sureties on the undertaking to be entered into herein.

ALBERT DOWLING.

Service of above accepted this 24th. day of July, 1905.

J. D. WRIGHT.

WM. R. ANDREWS.

Copy of this notice received by me in Mr. Buckey's office.

T. R. J. CAMPBELL.

*Undertaking on Appeal.*

Filed August 7, 1905.

In Justice's Court of the District of Columbia, Sub-district No. 6.

|                              |                    |
|------------------------------|--------------------|
| THOMAS W. BUCKEY, Plaintiff, | } 47900. No. 4666. |
| vs.                          |                    |
| ALBERT DOWLING, Defendant.   |                    |

The defendant desiring to appeal from the judgment of the justice of the peace rendered against him in the above-entitled cause on the 27 day of July, 1905, to the supreme court of the District of Columbia, and James E. Tobin his surety, hearby appearing and submitting to the jurisdiction of the said supreme court, undertake jointly and severally to abide by and pay the said judgment if it shall be affirmed, together with the costs of the appeal, and all intervening damages to the leased property, and compensation for the use and occupation thereof from the date of the said judgment to the date of its final affirmance, which said judgment, if affirmed, may be rendered against them by said appellate court jointly, or either of them separately, in this case, for the amount of the judgment so affirmed and the intervening damages, compensation, and costs aforesaid.

Given under our hands and seals this 27<sup>th</sup> day of July, A. D. 1905.

|                 |         |
|-----------------|---------|
| ALBERT DOWLING. | [SEAL.] |
| JAMES E. TOBIN. | [SEAL.] |

Witness:

ANTHONY L. RAY.

Approved July 27th, 1905.

HENRY RANDALL WEBB,  
*Justice of the Peace.*

6

*Certificate of J. P. on Appeal.*

Filed August 7, 1905.

In Justice's Court of the District of Columbia, Sub-district No. Six.

|                                       |   |                        |           |
|---------------------------------------|---|------------------------|-----------|
| THOMAS W. BUCKEY, Plaintiff,          | } | No. 47900.             | No. 4666. |
| vs.                                   |   | Possession of Premises |           |
| ALBERT DOWLING, Appellant, Defendant. |   | No. 2512 L St. N. W.   |           |

| Date.         | Proceedings.   |        |
|---------------|--|--------|
| July 1, 1905. | Summons & copy issued returnable July 14, 1905 at 10 a. m.....                                 | \$1.10 |
| " 3, "        | Summons returned; summoned by leaving copy with Camillo Decaro on premises. D't not found..... | .50    |
| " 14, "       | Parties present. Continued motion of pl't'ff to July 20, 1905 at 2 p. m.....                   | .25    |
| " 20, "       | Pl't'ff and counsel (Wm. R. Andrews) present.  |        |
| " " "         | Def't and counsel (A. A. Lipscomb) present.  |        |
| " " "         | Trial; swearing and hearing one witness i. e. Thomas W. Buckey for pl't'ff.....                | 1.00   |
| " " "         | Submission of cause.   |        |
| " 21, "       | Judgment for pl't'ff for possession and costs...   | .25    |
| " 22, "       | Appeal noted.  |        |
| " 24, "       | Notice of appeal filed.  |        |
| " 27, "       | Approval of undertaking on appeal, certificate of appeal and transmission of record.....       | 1.00   |

Attorneys: For pl't'ff—Wm. R. Andrews.  
 " d't A. A. Lipscomb.

7 I, Henry Randall Webb, justice of the peace in and for the said sub-district, do hereby certify that the foregoing is a true copy of my docket entries and of all the proceedings had before me in the above cause, and that the annexed documents are all the original papers filed in said cause.

Given under my hand and seal this 27th. day of July, A. D. 1905.

HENRY RANDALL WEBB, [SEAL.]  
*Justice of the Peace.*

Costs paid by plaintiff \$3.10.  
 Costs paid by defendant \$1.00.

*Motion to Dismiss Appeal.*

Filed August 16, 1905.

In the Supreme Court of the District of Columbia.

|  |   |                    |
|--|---|--------------------|
| THOMAS W. BUCKEY, Plaintiff, Appellee, | } | At Law. No. 47900. |
| vs.                                    |   |                    |
| ALBERT DOWLING, Defendant, Appellant.  |   |                    |

Now comes Thomas W. Buckey, plaintiff, and appellee, in his own proper person, appearing specially for the sole purpose of this motion, and moves this honorable court to dismiss the appeal herein on the ground that defendant's undertaking on appeal is insufficient and not in accordance with law, in that said undertaking is entered into by but one surety.

THOS. W. BUCKEY,  
*Plaintiff, Appellee.*

8

*Notice.*

Please take notice that on Tuesday, August 22, 1905, at 10 o'clock a. m., or as soon thereafter as I may be heard, I shall call the above motion to the attention of the justice holding said supreme court.

THOS. W. BUCKEY,  
*Plaintiff, Appellee.*

To Mr. A. A. Lipscomb, attorney for defendant, appellant.

Supreme Court of the District of Columbia.

FRIDAY, August 25th, 1905.

Session resumed, Hon. Wendell P. Stafford, justice, presiding.

|  |   |                    |
|--|---|--------------------|
| THOMAS W. BUCKEY, Plaintiff, Appellee, | } | No. 47900. At Law. |
| vs.                                    |   |                    |
| ALBERT DOWLING, Defendant, Appellant.  |   |                    |

Upon consideration of plaintiff's motion filed herein, August 16th, 1905, to dismiss appeal herein, it is ordered that said motion be, and the same is hereby granted, and said appeal is hereby dismissed with costs. Whereupon it is considered and adjudged, that the plaintiff herein recover of the defendant herein and James E. Tobin, the costs of this proceeding to be taxed by the clerk, and have execution thereof. Further the papers herein are hereby remanded to the justice of the peace from whence they came, to proceed thereunder, according to law.

### Order for Citation.

In the Supreme Court of the District of Columbia, the 29<sup>th</sup> Day of  
August, 1905.

The appellant Albert Dowling, hereby notes an appeal from the dismissal of appeal and judgment entered herein August 25, 1905. Clerk please issue citation to Thos. W. Buckey.

**10 In the Supreme Court of the District of Columbia.**

**The President of the United States to Thomas W. Buckey, Greeting :**

Seal Supreme Court  
of the District of  
Columbia.

Service of the above citation accepted this — day of —, 190—.

[Endorsed :] No. 47,900 Law. Equity. Thos. W. Buckey  
Bond bldg. vs. Albert Dowling Citation. Issued Aug. 29, 1905  
Served cop- of the within citation on ——— Not served  
because marshal's fee not paid Sept. 25, 1905 Aulick Palmer  
marshal. A. A. Lipscomb attorney for appellant.

*Memorandum.*

**September 11, 1905.—**Appeal bond filed.

*Directions to Clerk for Preparation of Record.*

Filed October 12, 1905.

In the Supreme Court of the District of Columbia.

|                  |   |                    |
|------------------|---|--------------------|
| THOMAS W. BUCKEY | } | At Law. No. 47900. |
| vs.              |   |                    |
| ALBERT DOWLING.  |   |                    |

To the clerk of the supreme court of the District of Columbia :

We designate the following parts of the record in the above cause which we desire printed :

The complaint and the return thereon.

All pleadings in said cause before the justice of the peace.

The judgment of said justice of the peace.

Notice of appeal to the supreme court.

Bond or undertaking approved by the justice of peace.

Motion to dismiss in the supreme court.

Judgment or order of supreme court.

Notice of appeal to Court of Appeals.

Bond given on the appeal to the Court of Appeals.

ALBERT DOWLING, *Appellant*,  
 By ANDREW LIPSCOMB,  
 W. M. ELLISON,  
*Attorneys.*

We consent to the above.

JOS. D. WRIGHT,

WM. R. ANDREWS,

*Att'ys for Buckey.*

10/12/05.

12 Supreme Court of the District of Columbia.

|                           |   |      |
|---------------------------|---|------|
| UNITED STATES OF AMERICA, | } | ss : |
| District of Columbia,     |   |      |

I, John R. Young, clerk of the supreme court of the District of Columbia, hereby certify the foregoing pages numbered from 1 to 11, inclusive, to be a true and correct transcript of the record, as per directions of counsel herein filed, copy of which is made part of this transcript, in cause No. 47,900 at law, wherein Thomas W. Buckey, is complainant, and Albert Dowling, is defendant, as the same remains upon the files and of record in said court.

In testimony whereof, I hereunto subscribe my name and affix the seal of said  
 Seal Supreme Court of the District of Columbia. court, at the city of Washington, in said District, this 24<sup>th</sup> day of October, A. D. 1905.  
 J. R. YOUNG, *Clerk.*

Endorsed on cover: District of Columbia supreme court. No. 1622. Albert Dowling, appellant, vs. Thomas W. Buckey. Court of Appeals, District of Columbia. Filed Oct. 30, 1905. Henry W. Hodges, clerk.

